



PLANNING COMMISSION SYNOPSIS

Thursday, July 23, 2015

CALL TO ORDER

Chairperson Nordstrom called the Planning Commission meeting to order at 6:00 p.m. in the Council Chambers of the Bloomington Civic Plaza.

COMMISSIONERS PRESENT: Nordstrom, Willette, Spiess, Batterson, Fischer, Bennett, Goodrum
STAFF PRESENT: Markegard, Centinario, O'Day

Chairperson Nordstrom led the attendees in the reciting of *The Pledge of Allegiance*.

ITEM 1

6:03p.m

CASE:	8300A-15
APPLICANT:	Reserve Company (owner) Max Guns & Ammo LLC (user)
LOCATION:	10750 Bloomington Ferry Road
REQUEST:	Conditional Use Permit for a retail firearm dealer in an existing shopping center

SPEAKING FOR THE APPLICANT:

Max Al Taqatqa, Max Guns and Ammo LLC

SPEAKING FROM THE PUBLIC:

Briana Al Taqatqa, wife of Applicant	10431 Wyoming Avenue S
Joseph G. Reitsma	10904 Oregon Avenue S
Andrew Carlson	4642 Heritage Hills Drive
Sarah Reimers	7850 West Park Hills Drive
Karen Lodoen	7340 Landau Drive
Kurt Schmidt, Bloomington Lutheran School, Principal	9852 Tree Farm Road
Barb Schneider	11317 Harrison Road
Angela Haug	7416 Landau Drive
Pat Hoffman, FDH	13795 Frontier Ct
Ann Topping	11045 Oregon Circle
Linda Fletcher	10923 Highland Road
Jon Holm	10516 Cavell Avenue
Will Reichert	4732 Nine Mile Creek Parkway
Joeseeph Niffen	7800 West Park Hills Drive
Tim Halverson	7346 Landau Drive
Jonathan Heyer	7810 West Park Hills Drive
Marna Winn	7041 West 110 th St Circle
Corey Busse	5000 Kingsdale Drive
Linda Parker	7600 Landau Drive

PUBLIC HEARING DISCUSSION:

Item is for a Conditional Use Permit for a retail firearms dealer in an existing retail center located at 10750 Bloomington Ferry Road. Centinario showed an aerial image of Countryside Shopping Center which is located in the northwest quadrant of West Old Shakopee Road and Bloomington Ferry Road. The tenant space is currently vacant. The existing space is larger; essentially two tenant spaces. The Applicant would divide the space into two spaces. Centinario showed an image of the area behind the shopping center. The image showed back entry access doors, an 8 ft wide asphalt path and trash receptacles. He displayed the proposed floor plan which identified the location of gun safes, retail floor, restrooms, access doors and the front entryway. Centinario noted that staff has received emails and phone calls primarily in opposition of the Conditional Use Permit. Centinario summarized the major concern was the proximity to the church and school and the overall "fit" in the primarily residential neighborhood. He said that the Planning Commission has to make the findings in order for the application to be approved. He described each finding and specifically highlighted the last finding because it is most relevant to this application. The residents and public made comments within their correspondence that the application does not fit in the neighborhood. Centinario reiterated that there are no findings that relate to whether this application "fits" in with the neighborhood. He noted that there are regulations associated with firearms sales. The Applicant is required to obtain a Federal Firearms License (FFL), which involves background checks, site visits, interviews and business investigations. Centinario stated that the remaining step for the applicant to receive the FFL is the Conditional Use Permit. The Applicant would like to sell new and used guns which would require access to inventory records and annual registration by the City. The City Code requires that only licensed dealers are permitted to sell secondhand firearms. Finally, the City requires a security and surveillance plan that must be reviewed and approved by the Bloomington Police Department which includes a review of locks, safes, lighting, cameras and alarms. Once the store is opened, there are regular inspections by the Bureau of Alcohol, Tobacco and Firearms and the Bloomington Police Department. Given the information, staff is recommending approval of the Conditional Use Permit.

Bennett asked whether there is an access door from the gun shop to the Subway in the drawing of the floor plan.

Centinario noted that both Subway and the gun shop share a common door. The City requires that recyclables and trash stay inside.

Bennett asked for clarification about the restroom.

Centinario said that any common door would be locked at all times.

Goodrum asked about the comments from other departments in Bloomington especially the Police Department.

Centinario said that the applicant has not submitted a detailed the surveillance plan. The Police Department is eager to work with the Applicant to approve and review the surveillance plan.

Fischer asked if the Commission can add conditions. Centinario confirmed the Commission may add Conditions of approval.

Batterson asked how the secondhand licensing is enforced.

Centinario said that the Licensing Department has access to and would review sales and any gun that is not appropriately acquired or sold would be a violation of the City's licensing requirements.

Batterson questioned if there are other gun shops in Bloomington.

Centinario noted there are active Federal Firearm Licenses in Bloomington which includes a couple pawn shops on Lyndale Avenue, but they do not have a display or a retail sales component. Wal-Mart no longer sells firearms. There is a history of retail stores in Bloomington, but there are currently no retail stores.

Nordstrom asked about the licensing process for those selling guns. Specifically, what do they have to go through, and is it driven by Federal, State or City regulations?

Centinario stated the sellers also have to go through the Federal Firearms Licensing process through the Bureau of Alcohol, Tobacco and Firearms which includes the background checks and interviews to make sure they are a legitimate dealer.

Nordstrom asked for clarification as to why the City has different standards for secondhand firearms .

Centinario answered that the prohibition on the display of guns within secondhand goods dealer locations is the same as the prohibition at pawn shops. The Licensing Department believed this requirement would be appropriate and applicable for a secondhand goods dealer. The standard was to limit the possibility of an off the street seller.

Nordstrom asked for additional clarification as to why the City has limitations on firearms beyond Federal limitations.

Markegard noted that there are two issues at play. First, making sure that firearms buyers and dealers are not criminals or otherwise unsuited for possessing firearms. That is more of a federal issue. Second, making sure that stolen goods of any type are tracked and returned to their rightful owner. That is more of a local issue.

Nordstrom said a dealer without a secondhand goods dealer license can sell used guns in a different city but cannot do so in Bloomington.

Markegard said that this shop could buy firearms from the public, but would then have to be licensed as a secondhand goods dealer. There is a City Code provision prohibiting secondhand goods dealers from displaying firearms, which is why the Applicant has decided not to purchase guns from the general public.

Batterson questioned the distance between the school and the gun shop.

Centinario displayed the aerial picture of the school and church. The federal government has a school zone that is 1,000 feet away from a school property. Although the shopping center would be within that 1,000 foot school zone, it is exempt from the prohibition because it is on private property.

Batterson clarified that once a gun owner steps onto public land, the gun has to be stowed and locked.

Bennett asked about the varying hours of operation in the staff report and the business plan.

Centinario noted the applicant would be best to clarify that.

Bennett asked the applicant about the hours.

The Applicant stated the hours were just to show the City what they are planning. Some workers would work different hours. Those hours are subject to change.

Goodrum asked about the Applicant's history and interest in owning a gun store.

Applicant lives two blocks away from the proposed gun shop. He enjoys hunting and would specialize in hunting firearms.

Fischer said it's unclear whether the long guns will be locked.

Applicant would have a safe that would hold a capacity of 64 long guns. All handguns would also be locked in a safe. He would be using ADT alarm system.

Bennett asked about the breakdown between online and in-store sales.

Applicant would use online auctions and gun brokers to advertise the item. The items will be shipped to an FFL dealer outside of Minnesota. He expects more than 70% of sales will be online.

Bennett asked how customers will receive the items.

Applicant said in order to be dealer in the City of Bloomington, he is required to have a shop and not work out of his home. The customers have the opportunity to purchase in store and online.

Bennett asked if the items will be shipped to the customers home or available for pickup at the store.

The Applicant has to receive an FFL letter from the online customer. The Post Office must receive the letter in order to process the shipment. The Applicant must perform a background check on the buyer.

Bennett inquired about sponsoring events in the community.

Applicant said that he plans to participate in gun shows around the state. The Applicant must be a dealer to participate in these events.

Bennett asked if there will be any in store events.

Applicant said no.

Breanna Al Taqatqa, wife of the Applicant explained the process for FFL dealers. The FFL process is the same in all states and regulated through the ATF. The Applicant has gone through same process. There are other gun shops in the West Metro. Al Taqatqa reiterated the issue is to avoid stolen goods. In other neighboring cities, dealers have the opportunity to purchase used guns. The FFL requires that once the serial number is recorded and in acquisition books, the police have access to those records. The FFL and police work together to find illegitimate guns and inactive licenses. She noted that she is familiar with the community and has lived in Bloomington for over 25 years. She pointed out that there is a Horse and Hunt Club in nearby Prior Lake. Also, the Minnesota State High School League participates in clay shooting as a registered activity. The Applicant has been approached to sponsor with those leagues.

Bennett asked about the process of obtaining a license and the hiring process for employees.

She said that only one employee has to obtain a FFL, all other employees are not required to do so. Though, an hourly employee must go through a federal background check, must be over 18 years to be

employed at the gun shop, and over 21 years to handle a handgun. There will be at least 1 or 2 part time employees starting out and there will be 2 employees in the shop at all times.

Goodrum clarified that Bloomington Schools have trap shooting leagues.

Joseph Reitsma has been around guns his entire life but questions the placement of the shop in this specific area. The community has to take a look at how often inventory turns over. He noted that the security and police presence in the area is a concern and believed the police patrols should increase if the application were approved.

Andrew Carlson said the commission should focus on the findings. The idea of “fit” is essential to this discussion. The Comprehensive Plan calls out the word “neighborhood orientated”. He argued that perhaps the gun shop should not be part of a “neighborhood orientated” shopping center. He called out Finding 4 as a burden to city parks and city streets, but asked what the burden is on churches and private schools. Carlson stated that the need for increased police enforcement has not been fully identified. Finding 5 calls out the safety and security of the store but asked about outside the store. Many things are outside the control of the business owner. Carlson expressed concern regarding the rear access. He also asked staff to explore comparisons of other FFL gun shops located within 1,000 ft of a school.

Sara Reimers is a longtime neighborhood resident. She lives directly behind Countryside and enjoys that Countryside Center has family friendly shops. There are bike and walking paths on Bloomington Ferry Road, a school, church, day care facilities, and Dred Scott Fields are all in close proximity. She stated that approving a conditional use permit for a gun and ammo shop goes against the investment that residents have made in creating a safe and welcoming atmosphere for families.

Karen Lodoen noted that if the school was not private, it would be within 1,000 ft. No matter how much security there is, there will still be problems. She envisioned the gun shop in a different area, not in the strip mall.

Kurt Schmidt is the principal of the nearby school and is concerned about school security. Finding 5 would not help public relations or recruitment. He does not agree with the federal exemption to the 1,000 ft buffer for private property. He would like to compare other gun shops in the area, specifically the shops in the west metro. He also stated that Zekes, Subway and the bank have been robbed in the past.

Barb Schneider said acoustics in room was poor. She asked how many places have liquor licenses within a 5 mile radius of the gun shop.

Nordstrom responded that a tenant in the Countryside Shopping Center has a liquor license.

Schneider thinks it is problematic that there would be a gun shop close to a liquor store and a restaurant that serves liquor.

Angela Haug is frightened to send her child to the nearby school. She said it is difficult to control who gets a gun license. People, responsible or not, can obtain a firearms license. Haug is also concerned about the 1,000 ft proximity to the school.

Kurt Schmidt mentioned that he didn't receive a notice about the proposed gun shop.

Markegard brought up the notification map. He stated that the City notifies 500 ft out from the proposed application and that the school property was notified.

Pat Hoffman has worked with the applicant. This application is a hot topic and an emotional issue. Firearms are a highly regulated issue. He said that neighbors may have guns and will be customers at this shop. He hoped to weigh the issue on actual facts.

Ann Topping noted that Bloomington is family friendly. The main concern is the kind of people the gun shop will attract to Bloomington. It is unsafe and not fit for Bloomington.

Linda Fletcher urged the Commission to think about the concerns and come back to the issue. She wondered if the Applicant has any experience running a gun shop. It would be better if someone knows what they're doing. She believed the lack of the surveillance plan is a major concern.

John Holm moved away from guns in North Minneapolis. He does not want any guns near him and his children. He believed that people can lose their temper and make mistakes. There is higher likelihood of people getting injured in the area.

Bill Reichert has served on the school and church board. He understands the concern and grew up in the Bloomington school district. A typical customer is more likely to drive up to the shop in a BMW than a pickup truck because of the store's available high end guns. These guns are antiques and works of art and are not the weapons we see in the news. He is concerned about the lack of surveillance behind the store and the possibility of attracting children in the back area. The Applicant should work with the property owner to make sure surveillance of the property is in good condition. He understood the neighborhood concerns, but the shop might attract the best clientele. Denying the application is denying the applicant the right to do business.

Joseph Niffen asked for clarification about the common access door. The appearance of the building with bars in the window would not be appealing. Niffen does not want this in his neighborhood and would prefer the store to move to a different business district, such as Lyndale Avenue.

Centinario stated there is a common door. The door would be locked at all times.

Tim Halverson said there are children residing in the condos across the street. There is a pool that is not secure. A gun store will not look good.

Jonathon Heyer's wife owns and operates the day care in the cul-de-sac directly behind Countryside Shopping Center. There is another day care that is approximately 20 feet from the gun shop. He is also concerned about the notice area and the 1,000 ft distance. He stated that the store is not appropriate for this area.

Marna Winn is shocked that Bloomington would consider allowing a gun shop in Bloomington.

Corey Busse lives outside of 1,000 ft of proposed site. As a former resident of the area, he urged the Commission to deny the application. He has voted in the church and schools. This is a common sense issue.

Parker said she has heard a rumor that Countryside will be demolished and become a senior high rise.

Markegard said he is aware of no information that would support such a rumor.

Parker said she can foresee traffic going up and down Old Shakopee Road.

Nordstrom stated that the Police allocate their personnel based on demand. City Hall is command central but squads are allocated based on demand.

Joseph Reisman asked about the response time for the Police Department. He also asked how the ammo will be secured and stored.

Bennett asked if there's been research done about a comparison with other communities.

Centinario said that is not something they've explored.

Bennett asked whether the Police Department has made any comments.

Centinario stated that the Bloomington Police Department is eager to review the surveillance plan and regularly attend DRC meetings. The Applicant cannot move forward without that discussion with the Police.

The public hearing was closed.

Nordstrom noted that business owners tend to ramp up security measures as unfortunate experiences happen over time. He stated that these types of places have high security systems oftentimes with bullet proof cases and locked doors. He stated that Max Guns and Ammo's surveillance system will be much tighter than Subway.

Fischer does not like that it's within 1,000 ft from the school. He also does not like where it's located in the city and would like to see something more centrally located. The proposed site is in a low traffic area, with little police patrol. He does not like the glass windows. It's easy to drive a car through the window. The woods in the back and lack of surveillance is an issue. The gun shop will be targeted. The setup of the site is not conducive to be secure enough. Especially high end guns.

Spiess said that she agrees with Fischer. She respects the time and effort of the Applicant to get a license. There was hard work done by both the City and the Applicant, but it is in an unfortunate location.

Goodrum agreed that he is not thrilled about the location. But the basic purpose of the Planning Commission is to review applications against the City Code and findings. The Development Review Committee reviews every application and there were no negative concerns flagged for this application. He visited a gun shop in Eden Prairie and said they have a clean operation and helpful employees. Even though there were bars in the window, the store fit in with the surrounding retail center and the neighborhood. The Planning Commission has seen many applications similar to this: liquor stores, medical marijuana distribution centers, youth rehab facility and battered women's shelter. There are concerns with most establishments like these. He wonders if this application is ideal in this location. Even so, he stated that it is difficult to deny the application based on the findings.

Batterson said that guns are a legal product and are in homes throughout the community. He stated that Max put together a good business plan and that he respected his wish to locate a business near his home. Bloomington is one of the largest cities in Minnesota with lots of hunters and people with a conceal to carry permit. Though, he noted that the location is wrong primarily because of Finding 5. There are many strip centers that could be a perfect fit in Bloomington. The location backs up to a residential neighborhood and is injurious to the residents from a real estate perspective. It is also injurious because it shares the same entryway as the school. He suggested that the Applicant submit in another location in Bloomington.

Nordstrom stated that the Planning Commission is driven by law. Firearms standards are a nationwide issue that trickles from the federal government to the city. When an application fulfills the City Code, it

is legally acceptable. He provided the example that using a cellphone while driving is more injurious to people than firing a gun. There are no laws that say gun shops are illegal because of the potential risks. Nordstrom will vote to approve the conditional use permit because it passes all the findings. The application will most likely go to City Council because of how many people oppose it. He noted that the Planning Commission should focus on the Findings.

Spiess made a motion to approve the Conditional Use Permit. Seconded by Goodrum.

Goodrum noted that perhaps the Police Department could do spot checks of the gun store and asked if that could possibly be part of the Conditions of Approval.

Centinario stated that Police Department would regularly inspect the shop and review the surveillance plan.

Nordstrom asked if there is anyone who wants to modify the motion.

Nordstrom called for a vote on Spiess' motion to approve. Motion failed 3-4 (Willette, Spiess, Batterson, Fischer against).

Markegard said that if the Planning Commission decided to deny the item, staff would request a continuance to prepare a resolution of denial that includes the reasons for denial cited by Commissioners. The item would be continued and a resolution of denial would be prepared for consideration at a later date.

Nordstrom asked if there should be a separate motion to continue the item in that event.

Markegard stated that is correct. If it were brought back for denial, it requires the preparation of a resolution of denial with input from the Legal Department. It would be important for preparation of the resolution that the Planning Commission outline the reasons for denial.

Spiess preferred to take action on the application and have the Applicant appeal the item to City Council.

Markegard noted that the motion to approve has failed but there has been no action taken on a denial.

Spiess asked for clarification on how to word a motion.

Nordstrom said the Planning Commission has final decision unless there is an appeal. Bloomington could be sued if the Planning Commission did not make the legal findings. Nordstrom reiterated to pay attention to the findings and rationale for denial.

Markegard stated that if there was a motion for denial, the public record needs to be complete. The Legal Department would be heavily involved in preparing a resolution of denial. He recommended continuing the item and adopting those findings of denial via a resolution at a future meeting.

Batterson asked if there would be another public hearing if the item were continued.

Markegard said the public hearing is closed but there is an opportunity for the Planning Commission to reopen the hearing if desired.

Batterson stated his vote to deny the the Conditional Use Permit was based on not being able to make Finding #5.

Batterson made a motion to continue the item to a later date for the preparation of a resolution of denial. Willette seconded. Motion approved 5-2 (Nordstrom and Spiess).

Nordstrom said that the item goes back to staff and legal counsel for preparation of a resolution of denial.

Batterson noted that his vote of denial was based on Finding 5 because it is injurious to the surrounding neighborhood.

Fischer noted that his vote of denial was also based on Finding 5 and the 1,000 ft proximity to the school.

Nordstrom stated that staff should particularly look at Finding 5 and the 1,000 ft standard.

Markegard asked for clarification that the continuance will be to the August 27th Planning Commission meeting. The Commission confirmed.

Goodrum asked if the 3 business day appeal period to City Council still applies.

Nordstrom said the item would go to City Council if the application is appealed. The City Council would look at the item as a new issue.

Markegard said if the application were denied on August 27, there is an opportunity for the Applicant or another interested party to appeal to the City Council.

ACTIONS OF THE COMMISSION:

M/Spiess, S/Fischer: To close the public hearing. Motion carried 7-0.

M/Spiess, S/Goodrum: In Case 8300A-15, having been able to make the required findings, I move to adopt a resolution approving a conditional use permit for a firearms dealer at 10750 Bloomington Ferry Road subject to the conditions of approval listed in the staff report.

Motion failed 3-4. Nordstrom, Bennett and Goodrum approving the Conditional Use Permit. Willette, Spiess, Batterson and Fischer denying the Conditional Use Permit

M/Batterson, S/Willette: In Case 8300A-15, I move to continue the item to the August 27th Planning Commission meeting for preparation of a resolution of denial.

Motion carried 5-2. Willette, Batterson, Fischer, Bennett and Goodrum approving. Nordstrom and Spiess denying.

The meeting adjourned at 7:56 p.m.

Prepared By: EO **Reviewed By:** GM, MC

Approved By Planning Commission:

12/3/15